

# House Study Bill 165

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JUDICIAL  
BRANCH BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act prohibiting a donation or contribution to an agency,  
2 organization, or political subdivision of the state in a  
3 criminal proceeding.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1389DP 82  
6 jm/gg/14

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1 1 Section 1. NEW SECTION. 901.11 DONATIONS == PROHIBITED.  
1 2 A monetary or property donation to any agency,  
1 3 organization, or political subdivision of the state is  
1 4 prohibited as a part of any dismissal, sentence, or other  
1 5 penalty.  
1 6 Sec. 2. Section 907.13, subsection 2, Code 2007, is  
1 7 amended to read as follows:  
1 8 2. The defendant's plan of community service, the comments  
1 9 of the defendant's probation officer, and the comments of the  
1 10 representative of the judicial district department of  
1 11 correctional services responsible for the unpaid community  
1 12 service program, shall be submitted promptly to the court.  
1 13 The court shall promptly enter an order approving the plan or  
1 14 modifying it. Compliance with the plan of community service  
1 15 as approved or modified by the court shall be a condition of  
1 16 the defendant's probation. The court thereafter may modify  
1 17 the plan at any time upon the defendant's request, upon the  
1 18 request of the judicial district department of correctional  
1 19 services, or upon the court's own motion. ~~As an option for~~  
~~1 20 modification of a plan, the court may allow a defendant to~~  
~~1 21 complete some part or all of the defendant's community service~~  
~~1 22 obligation through the donation of property to a charitable~~  
~~1 23 organization other than a governmental subdivision. A~~  
~~1 24 donation of property to a charitable organization offered in~~  
~~1 25 satisfaction of some part or all of a community service~~  
~~1 26 obligation under this subsection is not a deductible~~  
~~1 27 contribution for the purposes of federal or state income~~  
~~1 28 taxes.~~  
1 29 Sec. 3. Section 910.1, subsection 4, Code 2007, is amended  
1 30 to read as follows:  
1 31 4. "Restitution" means payment of pecuniary damages to a  
1 32 victim in an amount and in the manner provided by the  
1 33 offender's plan of restitution. "Restitution" also includes  
1 34 fines, penalties, and surcharges, ~~the contribution of funds to~~  
~~1 35 a local anticrime organization which provided assistance to~~  
~~2 1 law enforcement in an offender's case, the payment of crime~~  
2 2 victim compensation program reimbursements, payment of  
2 3 restitution to public agencies pursuant to section 321J.2,  
2 4 subsection 9, paragraph "b", court costs including  
2 5 correctional fees approved pursuant to section 356.7,  
2 6 court-appointed attorney fees ordered pursuant to section  
2 7 815.9, including the expense of a public defender, and the  
2 8 performance of a public service by an offender in an amount  
2 9 set by the court when the offender cannot reasonably pay all  
2 10 or part of the court costs including correctional fees  
2 11 approved pursuant to section 356.7, or court-appointed  
2 12 attorney fees ordered pursuant to section 815.9, including the  
2 13 expense of a public defender.  
2 14 Sec. 4. Section 910.2, Code 2007, is amended to read as  
2 15 follows:  
2 16 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY  
2 17 SENTENCING COURT.  
2 18 In all criminal cases in which there is a plea of guilty,

2 19 verdict of guilty, or special verdict upon which a judgment of  
2 20 conviction is rendered, the sentencing court shall order that  
2 21 restitution be made by each offender to the victims of the  
2 22 offender's criminal activities, to the clerk of court for  
2 23 fines, penalties, surcharges, and, to the extent that the  
2 24 offender is reasonably able to pay, for crime victim  
2 25 assistance reimbursement, restitution to public agencies  
2 26 pursuant to section 321J.2, subsection 9, paragraph "b", court  
2 27 costs including correctional fees approved pursuant to section  
2 28 356.7, or court-appointed attorney fees ordered pursuant to  
2 29 section 815.9, including the expense of a public defender,  
2 30 when applicable, ~~or contribution to a local anticrime~~  
~~2 31 organization.~~ However, victims shall be paid in full before  
2 32 fines, penalties, ~~and~~ surcharges, crime victim compensation  
2 33 program reimbursement, public agencies, court costs including  
2 34 correctional fees approved pursuant to section 356.7, and  
2 35 court-appointed attorney fees ordered pursuant to section  
3 1 815.9, including the expenses of a public defender, ~~or~~  
~~3 2 contributions to a local anticrime organization~~ are paid. In  
3 3 structuring a plan of restitution, the court shall provide for  
3 4 payments in the following order of priority: victim, fines,  
3 5 penalties, ~~and~~ surcharges, crime victim compensation program  
3 6 reimbursement, public agencies, court costs including  
3 7 correctional fees approved pursuant to section 356.7, and  
3 8 court-appointed attorney fees ordered pursuant to section  
3 9 815.9, including the expense of a public defender, ~~and~~  
~~3 10 contribution to a local anticrime organization.~~  
3 11 When the offender is not reasonably able to pay all or a  
3 12 part of the crime victim compensation program reimbursement,  
3 13 public agency restitution, court costs including correctional  
3 14 fees approved pursuant to section 356.7, or court-appointed  
3 15 attorney fees ordered pursuant to section 815.9, including the  
3 16 expense of a public defender, ~~or contribution to a local~~  
~~3 17 anticrime organization,~~ the court may require the offender in  
3 18 lieu of that portion of the crime victim compensation program  
3 19 reimbursement, public agency restitution, court costs  
3 20 including correctional fees approved pursuant to section  
3 21 356.7, or court-appointed attorney fees ordered pursuant to  
3 22 section 815.9, including the expense of a public defender, ~~or~~  
~~3 23 contribution to a local anticrime organization~~ for which the  
3 24 offender is not reasonably able to pay, to perform a needed  
3 25 public service for a governmental agency or for a private  
3 26 nonprofit agency which provides a service to the youth,  
3 27 elderly, or poor of the community. When community service is  
3 28 ordered, the court shall set a specific number of hours of  
3 29 service to be performed by the offender which, for payment of  
3 30 court-appointed attorney fees ordered pursuant to section  
3 31 815.9, including the expenses of a public defender, shall be  
3 32 approximately equivalent in value to those costs. The  
3 33 judicial district department of correctional services shall  
3 34 provide for the assignment of the offender to a public agency  
3 35 or private nonprofit agency to perform the required service.

4 1 EXPLANATION

4 2 This bill prohibits any donation to an agency,  
4 3 organization, or political subdivision of the state as part of  
4 4 any dismissal, sentence, or other criminal penalty. The bill  
4 5 eliminates a provision allowing a criminal defendant to make a  
4 6 donation in lieu of performing community service. The bill  
4 7 also eliminates provisions allowing a contribution by a  
4 8 criminal defendant to a local anticrime organization as part  
4 9 of the offender's restitution plan.  
4 10 LSB 1389DP 82  
4 11 jm:nh/gg/14